

HOUSE BILL REPORT

HB 1804

As Reported by House Committee On:
Environment & Energy

Title: An act relating to improving accessibility of community solar projects in Washington state.

Brief Description: Improving accessibility of community solar projects in Washington state.

Sponsors: Representatives Fey, Klicker, Duerr, Ybarra, Stuebe, Richards, Doglio, Pollet and Zahn.

Brief History:

Committee Activity:

Environment & Energy: 2/10/25, 2/20/25 [DPS].

Brief Summary of Substitute Bill

- Modifies the Washington State University Extension Energy Program's Community Solar Expansion Program, including by: increasing the size of projects eligible for the program, adding to the eligible administrators of the program, requiring biennial reporting, adding labor requirements, and modifying the amounts, timing of, and set asides for incentive payments.
- Changes the types of community solar entities that must register with the Utilities and Transportation Commission to do business in the state to include all nonutility entities except for tribal governments, certain affordable housing providers, or the sole low-income provider of a project.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Doglio, Chair; Hunt, Vice Chair; Dye, Ranking

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Member; Klicker, Assistant Ranking Member; Abbarno, Abell, Barnard, Berry, Duerr, Fey, Kloba, Ley, Mena, Mendoza, Ramel, Stearns, Street, Stuebe, Wylie and Ybarra.

Staff: Megan McPhaden (786-7114).

Background:

Community Solar Expansion Program.

The Washington State University Extension Energy Program (WSU Energy Program) administers a community solar incentive program, known as the Community Solar Expansion Program (Solar Program), that provides community solar incentive payments for the purpose of providing direct benefits to low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers.

Community Solar Projects.

Under the Solar Program, a community solar project (project) is a solar energy system that: (1) has a direct current nameplate capacity that is more than 12 kilowatts (kW) and no greater than 199 kW; (2) has at least two low-income subscribers or one low-income service provider; and (3) meets the eligibility requirements of the Solar Program. A project may include a storage system.

Administrators.

An administrator of an eligible project under the Solar Program (administrator) may be a utility, nonprofit, tribal housing authority, or other local housing authority.

Solar Program Precertification, Certification, and Payment Process.

Beginning July 1, 2022, through June 30, 2033, an administrator may apply to the WSU Energy Program to receive a precertification for the project. The WSU Energy Program's review includes reviewing the reasonableness of a project's cost and financial structure. There is a targeted installation cost for projects based on the project's kW capacity, but the WSU Energy Program may approve applications for projects that cost more or less than the targeted installation cost. If the WSU Energy Program approves the precertification, the project must be completed within two years and the administrator must apply for certification. If the WSU Energy Program then certifies a project, the utility serving the site of a project is authorized to remit a one-time low-income community solar incentive payment to the administrator. The administrator accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers. Qualified subscribers are low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers. The utility that provides the incentive is allowed a public utility tax credit in an amount equal to the incentive payment. A utility's participation in the Solar Program is voluntary.

Incentive Payment Amounts.

The WSU Energy Program may certify projects to receive one-time incentive payments in a

total statewide amount not to exceed \$100 million and not more than \$25 million each biennium.

The one-time low-income community solar incentive payment equals the sum of:

- the administrative costs related to starting up the project for qualifying subscribers, which is not to exceed \$20,000 per project; and
- the installed cost of the portion of the project that provides direct benefits to qualifying subscribers, not to exceed 100 percent of this cost.

Requirement for Utilities to Provide Compensation for Generated Electricity and Allowed Deductions by Administrators.

In addition to the one-time low-income community solar incentive payment for administrative and installed costs, a participating utility must also provide compensation for the electricity generated by a project. The utility delivers this compensation to the interconnection customer or retail electric customer, who then passes the compensation on to the administrator. The administrator must provide the compensation as a direct benefit to the project subscribers.

The administrator may deduct some of this compensation for ongoing administrative and maintenance costs as long as they justify these costs to the WSU Energy Program. The WSU Energy Program must review the cost justifications and approve, reject, or negotiate changes to the proposal. An administrator may request a change in these cost deductions only if the subscription agreement includes language notifying the subscriber that administrative fees are subject to change.

Regulation of Community Solar Companies Doing Business in the State.

A community solar company must register with the Utilities and Transportation Commission (UTC) on an annual basis to engage in business in the state. A community solar company is defined as a person, firm, or corporation, other than an electric utility, that owns a community solar project and provides community solar project services to project participants. These community solar projects are limited in size to 1,000 kW. Community solar project services include both the electricity generated by a community solar project and the financial benefits associated by this electricity and may include other services.

Clean Energy Transformation Act Low-income Assistance Requirement.

The Clean Energy Transformation Act (CETA) requires that electric utilities make programs and funding available for energy assistance to low-income households.

Summary of Substitute Bill:

Changes to the Washington State University Extension Energy Program Community Solar Expansion Program.

Community Solar Projects.

The maximum allowable size of projects under the Solar Program is 999 kW. All projects certified under the Solar Program must be within the State of Washington.

Administrators.

Affordable housing providers and federally recognized Indian tribal governments whose traditional lands and territories include parts of the state are eligible for funding and can administer projects under the Solar Program.

Incentive Payments: Project Precertification Partial Payments.

The WSU Energy Program may authorize partial incentive payments if a project is precertified, instead of only after a project is certified. A precertification incentive payment must be for 50 percent of project costs, and the remaining 50 percent must be provided when the project is certified. Administrators may adjust cost estimates for projects, and the WSU Energy Program has approval authority for cost increases. The WSU Energy Program may not reject approved precertification costs unless it determines there are material changes to the project design that eliminate the need for the costs.

If a project receives a precertification incentive payment and is not certified by the WSU Energy Program within two years, is certified for a lesser incentive payment than was provided, or does not provide direct benefits to the qualifying subscribers then the administrator must remit funding back to the state within 30 days of being notified by the WSU Energy Program to do so. The remitted funding must be the full incentive amount, with interest. The interest rate is the same as for delinquent excise taxes, and is assessed retroactively to the date the credit was claimed until the full amount of all amounts due are repaid.

Incentive Payments: Set-Asides, Deductions, Amounts for Utility Power Purchase Agreements, and Adjustments for Installed Costs.

At least \$50 million of incentive payments must be reserved for projects that are 199 kW or smaller.

Administrators may deduct costs from the incentive payment for unplanned maintenance or repair.

When a utility is an administrator and does not own a community solar project but is purchasing power from a third-party, the incentive payment must equal the cost for the utility to purchase power and corresponding renewable energy credits (RECs) from the community solar project for 10 years or until funding has been fully distributed, whichever comes later. This incentive payment is just for the portion of the project that provides direct benefits to qualifying subscribers over those 10 years. All RECs must be retired on behalf of Solar Program participants or participants must be compensated for the additional value from RECs. Utilities receiving such power purchase agreement incentives may not earn a rate of return on incentives certified by the WSU Energy Program. The WSU Energy Program must ensure that no more than \$35 million of available funding is provided to

utilities to administer projects through power purchase agreements.

Utilities applying for precertification of incentives for power purchase agreements must provide all necessary data to enable the WSU Energy Program to evaluate the cost of the power purchase agreement using the installed cost target. The WSU Energy Program may consult with the UTC to verify the cost effectiveness of incentives for power purchase agreements.

When reviewing the installed cost target, the WSU Energy Program may use an analysis of market conditions to determine a new target, which may include consultation with a working group of representatives with diverse perspectives on community solar. The results of such an analysis must be made public.

The WSU Energy Program may request additional justification for any project costs it deems unreasonable. The WSU Energy Program may additionally evaluate the interconnection costs and distribution system improvements required to meet utility interconnection standards when approving a project.

Changes to the Process for Administrator Deductions from Compensation for Generated Electricity.

The WSU Energy Program must approve, rather than receive a justification for, the administrative and maintenance costs that an administrator deducts from the compensation provided to subscribers for a project's generated electricity. If an administrator requests a change in the administration or maintenance cost deduction, subscribers must be provided notice of the fee change and a reason for the change.

Labor Requirements.

Before receiving an incentive payment, projects greater than 199 kW and less than or equal to 999 kW must receive certification from the Department of Labor and Industries (L&I) that the project construction includes certain specified labor factors, which include:

- apprentice utilization;
- prevailing wage rates; and
- a copy of the contractor's certificate of registration in compliance with state law for contractor registration, which must include five specified items.

If a business does not include one of these standards but a person demonstrates a good faith effort to comply, L&I may certify that they are in compliance.

Reporting.

The WSU Energy Program must report to the Legislature every even-numbered year starting in fiscal year 2026. The report must include the number of projects certified, number of subscribers per project, and total benefits from all projects.

Additional Provisions.

The verification that an individual household subscriber meets the definition of low-income may be done in the form of self-attestation.

Utilities are encouraged to participate in the Solar Program by applying eligible costs and tax credits to their requirements to have low-income programs and funding under the CETA.

If specific funding is not provided for the bill by June 30, 2035, the bill is null and void.

Community Solar Companies Doing Business in the State.

The community solar companies that must register with the UTC to do business in the state include organizations, community solar cooperatives, and any entity providing community solar project services. Exceptions include utilities, tribal governments, affordable housing providers who administer community solar projects exclusively to tenants of a property they own or lease with onsite solar, and the sole participating low-income service provider of a project.

Community solar project services are redefined to specifically include:

- marketing subscriptions;
- collecting funds to pay for a portion of a project or to purchase, subscribe to, or compensate for benefits from a project's output;
- enrolling subscribers or participants;
- administering energy and financial benefits; and
- soliciting or entering into interconnection contracts for community solar projects.

Substitute Bill Compared to Original Bill:

As compared to the original bill, the substitute bill:

- adds affordable housing providers who administer community solar projects exclusively to tenants of a property they own or lease with onsite solar to the list of entities that are not considered a community solar company and are not required to register with the UTC to do business in the state;
- restores the current law of a 1 megawatt cap for community solar projects;
- removes the requirement that the prevailing wage rate is determined by local collective bargaining and replaces it with a requirement that prevailing wage rates must follow state law for prevailing wage rates on public works projects, for the community solar projects that must adhere to certain labor requirements;
- removes the authorization for the WSU Energy Program to adjust the targeted installation costs for a community solar project on an annual basis;
- requires utility administrators pursuing an incentive for a power purchase agreement under the Solar Program to provide data to the WSU Energy Program to enable the WSU Energy Program to evaluate the cost of the power purchase agreements using the installed cost target in the utility's application for precertification;
- allows the WSU Energy Program to consult with the UTC to verify the cost

effectiveness of authorized power purchase agreement incentives for utility administrators;

- allows the WSU Energy Program, when determining new installed cost targets, to analyze market conditions, and to consult with a working group when doing so, and requires the results of such an analysis to be made publicly available;
- requires that all community solar projects under the Community Solar Expansion Program are in the State of Washington; and
- establishes that if funding is not specifically appropriated for the substitute bill, the substitute bill is null and void.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 20, 2025.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The funding provided through the WSU Energy Program is a key tool for utilities to expand access to more low-income customers and tribes. This bill removes barriers, makes the already allocated dollars more accessible, and makes the Solar Program more flexible. The expanded availability of funds under the bill will help utilities use the WSU program to make solar energy benefits available to more residents. It also lets utilities choose the least costly option for acquiring new community solar. The requirement for entities to register with the UTC is appreciated because there were concerns about some practices by some groups; this is helpful to increase consumer protection and safety. There are some concerns on the limits on who can participate. This would help nonprofits and low-income service providers with upfront capital for projects because they could receive up to 50 percent of the incentive earlier in the process. Interconnection costs could potentially be covered by the incentive, which is helpful. There is a desire for WSU to have some flexibility to look at the target costs for projects. There is also a desire for WSU to evaluate the target cost annually because the estimated cost for battery storage is about two times the target price in statute.

(Opposed) None.

(Other) Increasing project sizes is important to exploit economies of scale and lower costs. There are concerns about authorizing the use of power purchase agreements. The bill could allow subsidizes for Washington projects to flow outside the state's borders, but these funds should stay in the state to benefit ratepayers and prioritize investments in the built environment and brownfield sites. The bill may allow the state's limited funds to support

projects that lack transparency and accountability. There are concerns about the change to the definition of community solar project and project services that removes reference to power generation.

Persons Testifying: (In support) Representative Jake Fey, prime sponsor; Heather Mulligan, Puget Sound Energy; Josie Cummings, Avista; and Peter Godlewski, Association of Washington Business.

(Other) Bill Will, Washington Solar Energy Industries Association; and Reeves Clippard, A and R Solar.

Persons Signed In To Testify But Not Testifying: None.